SUPREME COURT OF THE UNITED STATES

CELESTINE PIERRE *v.* CONNECTICUT GENERAL LIFE INSURANCE COMPANY ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 91–485. Decided November 18, 1991

The petition for a writ of certiorari is denied.

JUSTICE WHITE, with whom JUSTICE BLACKMUN joins, dissenting.

This lawsuit stems from a denial of accident insurance benefits by the administrator of an Employee Retirement Income Security Act (ERISA) plan. See 29 U. S. C. §1132 (a)(1)(B). In *Firestone Tire & Rubber Co.* v. *Bruch*, 489 U. S. 101, 115 (1989), we reasoned that "the validity of a claim to benefits under an ERISA plan is likely to turn on the interpretation of terms in the plan" and therefore held that decisions of a plan administrator concerning eligibility for benefits ordinarily should be subject to *de novo* review.

Since our decision in *Bruch*, a disagreement has developed in the Courts of Appeals concerning the standard of review to be applied when a benefits decision turns on the facts of the case, rather than the interpretation of the terms in the ERISA plan. The Third and Fourth Circuits have held that a decision of a plan administrator should be reviewed *de novo*. *Luby* v. *Teamsters Health, Welfare & Pension Trust Funds*, 944 F. 2d 1176 (CA3 1991); *Reinking* v. *Philadelphia American Life Insurance Co.*, 910 F. 2d 1210 (CA4 1990). See also *Petrilli* v. *Drechsel*, 910 F. 2d 1441 (CA7 1990) (dicta). However, in the present case, the Fifth Circuit ruled that an abuse of discretion standard should be applied. *Pierre* v. *Connecticut General Life Insurance Co.*, 932 F. 2d 1552 (CA5 1991).

I would grant certiorari to resolve the conflict in the Courts of Appeals on this important issue.